



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HOWELL METAL COMPANY
FOR
PRECISION TUBE
Registration No. 80147**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the Virginia Department of Environmental Quality and Howell Metal Company, regarding the Precision Tube facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms in this Consent Order have the meaning assigned to them in Va. Code §10.1-1300 *et seq.* and the Regulations for the Control and Abatement of Air Pollution (Regulations) at 9 VAC 5-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Howell Metal Company (Howell) is a business entity authorized to do business in Virginia and references to Howell include its affiliates, partners, and subsidiaries. Howell is a "person" within the meaning of Va. Code § 10.1-1300.

2. Howell, dba Precision Tube, owns and operates a copper and aluminum tubing manufacturing facility at 574 New Market Depot Road, in Shenandoah County (Facility), subject to an Article 6 minor New Source Review (mNSR) Permit issued on December 10, 2021 (Permit).
3. On December 14, 2020, Howell submitted an initial Form 7 application to construct and operate a copper tubing manufacturing facility that included two degreasers (DG-2 & DG-3). Howell amended the Facility's initial application on January 18 and October 14, 2021. The mNSR Permit application was considered complete on November 19, 2021.
4. On August 20, 2021, DEQ staff conducted a Full Compliance Evaluation (FCE) of the Facility. During the on-site inspection, the Facility contact stated that the previously permitted Vapor Degreaser (Ref. No. DG1) was sold and removed from the premises. In the Middle Mill area of the Facility, a degreaser (DG-2) was present, though not operating at the time of the inspection. The degreaser (DG-2) was not identified in the Facility's State Operating Permit (SOP) dated October 20, 2009, as amended April 29, 2010, and March 7, 2012, nor did the Facility provide documentation demonstrating that the degreaser (DG-2) was exempt from permitting.
5. 9 VAC 5-80-1120.A. states: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit."
6. 9 VAC 5-80-1210.E. states: "Any owner who constructs or operates a source subject to this section not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a source subject to this section who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
7. On December 10, 2021, DEQ issued the mNSR Permit to the Facility to construct and operate a copper and aluminum tubing manufacturing facility, including the degreaser (DG-2). The Permit combines the terms of a minor New Source Review (NSR) permit with, and replaces, the State Operating Permit (SOP) dated October 20, 2009, as amended April 29, 2010, and March 7, 2012.
8. An Annual Update Report and Emissions Statement (AUR/ES) is due from the Facility on April 15 every year. The AUR/ES for CY2021 was originally requested via e-mail dated December 6, 2021. A reminder e-mail was sent on May 13, 2022.
9. 9 VAC 5-40-50.H. states: "Upon request of the board, the owner of an existing source subject to the provisions of this chapter shall provide notifications and report, revise reports, maintain records or report emission test or monitoring result in a manner and form and using procedures acceptable to board."
10. On May 24, 2022, DEQ received the AUR/ES from Howell.

11. On May 31, 2022, DEQ issued a Notice of Violation (NOV) No. AVRO002192-001 to Howell for violations including late submittal of the AUR/ES, and for construction and operation of the degreaser (DG-2) without a permit.
12. On June 14, 2022, DEQ held a meeting with Howell to discuss the NOV and next steps forward.
13. Based on the results of the FCE on August 20, 2021, and the documentation submitted on May 24, 2022, the Department concludes that Howell has violated 9 VAC 5-80-1120.A., 9 VAC 5-80-1210.E., 9 VAC 5-40-50.H., as described in paragraphs C(3) through C(11), above.
14. Howell has received its new Permit and submitted the required annual reports, therefore DEQ determined that the violations described in paragraphs C(3) and C(11), above, were corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Department orders Howell, and Howell agrees to:

1. Pay a civil charge of \$8,823.36 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Howell shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Howell shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Howell for good cause shown by Howell, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. AVRO002192-001 dated May 31, 2022. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Howell admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Howell consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Howell declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.
6. Failure by Howell to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Howell shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Howell shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Howell shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Howell. Nevertheless, Howell agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Howell has completed all of the requirements of the Order;
 - b. Howell petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or the Department terminates the Order in his or its sole discretion upon 30 days' written notice to Howell.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Howell from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Howell and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Howell certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Howell to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Howell.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Howell voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2023.

Tiffany R. Severs, Regional Director
Department of Environmental Quality

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Howell Metal Company voluntarily agrees to the issuance of this Order.

Date: 17 March 23 By: Charles Blanton Corp Dir - EHS,
(Person) (Title) Mueller
Howell Metal Company Industries

State of Tennessee
~~Commonwealth of Virginia~~
City/County of Shelby

The foregoing document was signed and acknowledged before me this 17 day of
March, 2023 by Charles Blanton who is
Corporate Director EHS of Howell Metal Company, on behalf of the corporation.

[Signature]
Notary Public

Registration No. _____

My commission expires: 8-20-23

Notary seal:

